

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BRENT BECKER

Plaintiff,

v.

CAESARS ENTERTAINMENT;
CULINARY UNION LOCAL 226,

Defendants.

Case No. 2:19-cv-01043-RFB-DJA

ORDER

I. INTRODUCTION

Before the Court is Defendant Culinary Union's Motion to Dismiss [ECF No. 16], Defendant Caesars Entertainment's Motion to Dismiss [ECF No. 19], and Plaintiff's Motion for Leave to File Second Amended Complaint [ECF No. 40].

II. PROCEDURAL BACKGROUND

Plaintiff filed a complaint on June 18, 2019. ECF No. 1. This Complaint was served on Defendant Culinary Union on July 30, 2019. ECF No. 5. It was not served on Defendant Caesars Entertainment. Plaintiff filed his Amended Complaint on August 30, 2019. ECF No. 10. The Amended Complaint was served on Caesars Entertainment on September 27, 2019. ECF No. 13. It was served on Defendant Culinary Union on September 10, 2019. ECF No. 15. Defendant Culinary Union filed its Motion to Dismiss, ECF No. 16, on October 1, 2019. Plaintiff filed his response to this Motion to Dismiss on October 16, 2019. ECF No. 18. Defendant Caesars Entertainment filed its Motion to Dismiss on October 18, 2019. ECF No. 19. Plaintiff filed his response to this Motion to Dismiss on November 1, 2019. ECF No. 24. Plaintiff was representing himself when he filed these complaints and his responses to these motions. Plaintiff retained counsel and his attorney filed a Notice of Appearance on December 23, 2019. ECF No. 31. An Amended Discovery Plan was approved by the Court on January 3, 2020. ECF No. 33. This Amended Discovery Plan set March 24, 2020 as the last date to file motions to amend pleadings.

1 ECF No. 32. Plaintiff filed his Motion For Leave to Filed Second Amended Complaint on March
2 24, 2020. ECF No. 40. Plaintiff's counsel was allowed to withdraw on June 25, 2020. ECF No.
3 58.

4 5 **III. DISCUSSION**

6 The Court denies the Motion to Dismiss by Defendant Culinary Union as the Court finds
7 that there is good cause to grant Plaintiff's Motion to Amend. The Court notes that Plaintiff initially
8 requested leave to amend in his responses to the motion. See ECF No. 18. Plaintiff filed his motion
9 to amend by the deadline for the filing of motions to amend the pleadings. See ECF Nos. 32, 33.

10 After a party has amended a pleading once as a matter of course, it may only amend further
11 after obtaining leave of the court, or by consent of the adverse party. Fed. R. Civ. P. 15(a).
12 Generally, Rule 15 advises the court that "leave shall be freely given when justice so requires."
13 This policy is "to be applied with extreme liberality." Owens v. Kaiser Found. Health Plan, Inc.,
14 244 F.3d 708, 712 (9th Cir. 2001). The Court finds Plaintiff was diligent with and without counsel
15 in pursuing his claims and that there will be no prejudice to the Defendants by the granting of the
16 Motion to Amend. Upon review the record, including recently filed dispositive motions (ECF Nos.
17 62, 66) by the Defendants, the Court finds that Defendants have pursued discovery and litigation
18 with all potential claims in mind. However, should the Defendants seek to modify their motions
19 for summary judgment, the Court will permit them to do so.

20 The Court also denies Defendant Caesars Entertainment's Motion to Dismiss. The Court
21 finds that Plaintiff adequately explained the slight delay in his meeting the deadline for service of
22 his original complaint. See ECF No. 24. The Court finds that Plaintiff while representing himself
23 was diligent in the pursuit of his case and attempts to effect service on Defendant Caesars
24 Entertainment. The Court therefore finds there is good cause for his failure to meet the deadline
25 for service and extends the time to allow for the service under Fed. R. Civ. P. 4(m).

IT IS ORDERED that the Motions to Dismiss [ECF Nos. 16, 19] are DENIED.

The Clerk of Court is instructed to file the attached Second Amended Complaint which shall be the operative complaint in this case.

IT IS FURTHER ORDERED that the Motion to Extend Time [ECF No. 25] is GRANTED.

IT IS FURTHER ORDERED that Defendants shall have until October 14, 2020 to withdraw their respective Motions for Summary Judgment [ECF Nos. 62, 66] and file new motions if they deem it appropriate. If no new motions are filed, the Court will consider the arguments raised in these motions and apply them to the claims in the Second Amended Complaint. Defendants will not be able to file any supplemental dispositive motions after October 14, 2020.

IT IS FURTHER ORDERED that Plaintiff's Response to either the current motions for summary judgment or newly filed motions for summary judgment shall be due November 13, 2020. Any replies will be due December 1, 2020.

DATED: October 1, 2020.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE